

IN THE MATTER OF

*

BEFORE THE

PAMELA A. VOGEL, P.T.A.

*

MARYLAND STATE

License No. A2613

*

BOARD OF PHYSICAL THERAPY

Respondent

*

EXAMINERS

* * * * *

CONSENT ORDER

PROCEDURAL BACKGROUND

On or about July 20, 2006, the Maryland Board of Physical Therapy Examiners (the "Board") charged **PAMELA A. VOGEL, P.T.A.** (the "Respondent"), License No. A2613 with violating certain provisions of the Maryland Physical Therapy Act ("the Act"), codified at Md. Code Ann., Health Occupations ("Health Occ.") §§ 13-101 *et seq.* (2000 Repl. Vol. and 2004 Supp.). On or about August 26, 2006, the Respondent appeared before the Case Resolution Conference Committee (the "CRC") of the Board in order to attempt to resolve the July 20, 2006 charges. As a result of the negotiations that occurred at the CRC, the Respondent agreed to enter into a Consent Order, which was executed by the Board on September 19, 2006. The Consent Order immediately stayed a one-year suspension of the Respondent's license and placed her on probation for a period of two (2) years, subject to myriad conditions. However, despite numerous reminders from the Board, the Respondent did not comply with all of the conditions of the Consent Order.

As a result of the Respondent's non-compliance with the September 19, 2006 Consent Order, on June 18, 2008 the Board issued a Show Cause Order and an unexecuted Final Order lifting the stay of suspension and suspending the Respondent's license to practice limited physical therapy for a period of one (1) year.

On October 22, 2008, after discovering that Respondent did not disclose a prior criminal conviction on her 2005 and 2007 renewal applications, the Board rescinded the Show Cause Order and issued a Notice of Intent to Revoke a License to Practice Limited Physical Therapy Under the Maryland Physical Therapy Act. The Respondent requested that a CRC be held in an attempt to resolve the October 22, 2008 charges. A CRC was held on January 29, 2009.

BACKGROUND

On January 29, 2009, the Respondent appeared before the CRC (the "CRC") of the Board. As a result of the negotiations that occurred at the CRC, the Respondent agreed to enter into this Consent Order, consisting of Procedural Background, Findings of Fact, Conclusions of Law and Order, with the terms and conditions set forth below.

FINDINGS OF FACT

The Board finds the following:

1. The Respondent is licensed to practice limited physical therapy in the State of Maryland being issued License Number A2613. The Respondent was originally licensed on September 13, 2001.
2. The Respondent was most recently practicing limited physical therapy through employment with Southern Maryland Home Health Services in Clinton, Maryland, which provides health care services to patients directly in their homes.
3. On or about July 20, 2006, the Board charged the Respondent with violating Health Occ. § 13-316(5) (practices limited physical therapy other than as authorized by this title);

(15) (violates any provision of this title or rule or regulation adopted by this Board); and
(25)(fails to meet accepted standards in delivering physical therapy or limited physical therapy).

4. On or about August 29, 2006, the Respondent appeared before the CRC in order to attempt to resolve the July 20, 2006 charges. As a result of the negotiations that occurred at the CRC, the Respondent agreed to enter into a Consent Order, consisting of Procedural Background, Findings of Fact, Conclusions of Law and Order.

5. The Consent Order, executed by the Board on September 19, 2006, suspended the Respondent's license to practice limited physical therapy in the State of Maryland for one (1) year with the entire period of suspension immediately stayed.

6. The Consent Order further placed the Respondent on probation for a period of two (2) years subject to the following terms and conditions:

- a. The Respondent shall enroll in and successfully complete the next available Maryland Physical Therapy Law Course;
- b. The Respondent shall enroll in and successfully complete a Board-approved documentation course within the first six (6) months of the probationary period.
- c. The Respondent shall submit the treatment records of four (4) patients within the first sixty (60) days of the probationary period to be reviewed by the Board and an additional four (4) patients on a quarterly basis thereafter. The Respondent shall follow the Board's recommendations regarding its review of the Respondent's documentation; and
- d. The Respondent shall pay a fine in the amount of five-hundred dollars (\$500) by certified check or money order payable to the Board within one (1) year from the date that this Consent Order is executed.

7. In accordance with the terms of the Consent Order the Respondent enrolled in and successfully completed the November 16, 2006 Maryland Physical Therapy Law course, and on or about February 6, 2008, paid a fine in the amount of five-hundred (\$500) dollars to the Board.
8. By letter dated February 11, 2008, sent to the Respondent's address of record with the Board, the Board's Executive Director informed the Respondent that she had failed to comply with several conditions contained in the September 19, 2006 Consent Order. The letter indicated, among other violations, that the Respondent had failed to submit patient treatment records to the Board as required in the Consent Order. The Respondent did not answer the Executive Director's letter.
9. By letter dated March 18, 2008, sent to the Respondent's address of record with the Board, the Board's Executive Director again informed the Respondent that she was not in compliance with the September 19, 2006 Consent Order. The letter directed the Respondent to submit six (6) patient charges for review by the Board in accordance with the terms of the Consent Order.
10. On or about May 13, 2008, the Respondent faxed the treatment records of five (5) patients to the Board. The Respondent indicated that she had attended a documentation course on May 1, 2008, but still needed to complete the test to obtain a certificate of completion.
11. To date, the Respondent has not submitted to the Board proof of having completed a Board-approved documentation course.

12. By failing to provide the treatment records of patients in accordance with the time frames set out in the September 19, 2006 Consent Order, and failing to submit proof of completion of a Board-approved documentation course as directed in the Consent Order, the Respondent failed to comply with the probationary conditions of a Board Order in violation of Health Occ. § 13-316(15)(violates any provision of this title or rule or regulation adopted by the Board); (19)(commits an act of unprofessional conduct in the practice of physical therapy or limited physical therapy); and COMAR 10.38.02.01G (physical therapist assistant shall comply with probationary conditions of a Board order).

13. The Consent Order provided that should the Respondent violate any of the terms or conditions of the Consent Order, the Board, after notice, opportunity for hearing and determination of violation, may impose any other disciplinary sanctions it deems appropriate, including suspension or revocation, said violation being proven by a preponderance of the evidence.

14. While investigating the Respondent's compliance with the probationary conditions set forth above, it was discovered that the Respondent was found guilty on October 15, 2004 of a violation of Md. Code Annotated, Criminal Law § 7-104 (Theft less than \$500) in the District Court of Maryland for Charles County.

15. On October 15, 2004, the Respondent was sentenced by the District Court of Maryland for Charles County to sixty (60) days in prison with all but two (2) days suspended. The Respondent was further placed on probation for a period of one (1) year.

16. The Offense/Incident Report from the Charles County Sheriff's Office stated that on or about February 25, 2004, the Respondent placed various items including a sewing machine in a shopping cart at a department store in Waldorf, Maryland, exited the store without paying for them, attempted to place the items in her vehicle, and then fled, spinning her tires, as she left the parking lot. The department store's loss prevention officer took down the Respondent's license plate number.

17. On or about March 2, 2004, the Respondent was interviewed by the Charles County Sheriff's Office. The Respondent indicated that she left the department store without paying for the merchandise because she was running late and wanted to save herself the time of stopping at the register.

18. More recently, on or about July 12, 2008, the Respondent was criminally charged in the District Court of Maryland for Anne Arundel County with violation of Crim. L. § 7-104 (Theft less than \$500) arising out of an incident that occurred at Macy's in the Annapolis Mall. According to the police report, the Respondent and her two minor children were observed placing clothing and handbags into shopping bags and then exiting the store without any attempt to pay for the merchandise.

19. On November 21, 2008, in the District Court of Maryland for Anne Arundel County, the Respondent was found guilty a violation of Crim. L. § 7-104 (Theft less than \$500) and sentenced to seventeen (17) months and thirty (30) days in prison with all but three (3) days suspended. The Respondent was also ordered to pay a fine in the amount of five-hundred dollars (\$500) with three-hundred fifty seven dollars and fifty cents (\$357.50)

suspended. The Respondent appealed her conviction to the Circuit Court of Maryland for Anne Arundel County. The trial date is March 20, 2009.

20. A review of the Respondent's 2005 and 2007 licensure renewal applications reveals that the Respondent failed to report the 2004 criminal conviction to the Board.

21. The Respondent's 2005 Renewal Application, signed by the Respondent on April 5, 2005, under affirmation that the information provided to the Board was true and correct to the best of her knowledge, asked the following question:

Have you committed a criminal act to which you pled guilty or nolo contendere or for which you were convicted or received probation before judgment?

The Respondent checked "no" in response to the question.

22. The Respondent's 2007 Renewal Application, which the Respondent completed electronically on or about May 29, 2007 through the Board's website, asked the following question:

Have you committed a criminal act to which you pled guilty or nolo contendere or for which you were convicted or received probation before judgment?

The Respondent again checked "no" in response to the question.

23. By answering "no" to the questions inquiring about previous criminal convictions on her 2005 and 2007 Board Renewal Applications, the Respondent fraudulently or deceptively obtained or attempted to obtain a license, temporary license, or restricted license for the applicant, licensee, or for another in violation of Health Occ. § 13-316(1) and committed an act of unprofessional conduct in the practice of limited physical therapy

in violation of Health Occ. § 13-316(19) and willfully made or filed a false report or record in the practice of physical therapy in violation of Health Occ. § 13-316(12).

24. By being adjudicated guilty on October 15, 2004 and on November 20, 2008 of a violation of Crim. L. § 7-104 (Theft less than \$500) in the District Court of Maryland for Charles County, the Respondent was convicted of a crime involving moral turpitude in violation of Health Occ. § 13-316(6).

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Board concludes as a matter of law that the Respondent violated Md. Health Occ. Code Ann. § 13-316(1), (6), (12), (15) and (19).

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is this 17th day of March 2009, by a majority of the Board considering this case:

ORDERED that the Respondent's license to practice limited physical therapy shall be **SUSPENDED** for a **PERIOD OF NINETY (90) DAYS, EFFECTIVE MAY 1, 2009**; and be it further

ORDERED that the Respondent shall be placed on **PROBATION** for a **PERIOD OF THREE (3) YEARS**, to commence from the date that this Consent Order is executed, subject to the following terms and conditions:

1. The Respondent shall enroll in and successfully complete the free Board-sponsored continuing education course on professional ethics, scheduled on April 3, 2009;

2. The Respondent shall submit proof of successful completion of a Board-approved documentation course, which may be the course the Respondent proffered that she had taken on May 1, 2008, within six (6) months of the Consent Order;
3. The Respondent shall enroll in and successfully complete the Board-approved Maryland Physical Therapy Law Course in June 2009;
4. Prior to May 1, 2009, submit to the Board four (4) patient treatment records demonstrating ongoing communication with her supervising physical therapist;
5. Beginning August 1, 2009, the Respondent shall submit to the Board on a quarterly basis (i.e. every three (3) months) four (4) patient treatment records demonstrating ongoing communication of her supervising physical therapist for the duration of the probationary period.

ORDERED the above courses shall be in addition to any Continuing Education requirements mandated for continued licensure, and the Continuing Education shall not count toward fulfilling other continuing education requirements that the Respondent must fulfill in order to renew his license to practice physical therapy; and be it further

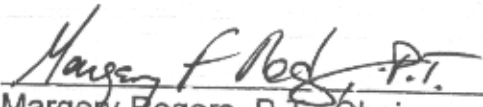
ORDERED after the conclusion of the entire **THREE (3) YEAR** period of **PROBATION**, the Respondent may file a written petition for termination of her probationary status without further conditions or restrictions, but only if the Respondent has satisfactorily complied with all conditions of this Consent Order, including all terms and conditions of probation, and including the expiration of the three (3) year period of probation, and if there are no pending complaints regarding the Respondent before the Board; and be it further

ORDERED that should the Respondent violate any of the terms or conditions of this Consent Order, the Board, after notice, opportunity for a hearing and determination of violation, may impose any other disciplinary sanctions it deems appropriate, including

suspension or revocation, said violation being proven by a preponderance of the evidence;
and be it further

ORDERED that the Respondent shall be responsible for all costs incurred in fulfilling
the terms and conditions of this Consent Order; and be it further

ORDERED that this Consent Order is considered a **PUBLIC DOCUMENT** pursuant
to Md. State Gov't Code Ann. §§ 10-611 et seq. (2004 Repl. Vol.).


Margery Rogers, P.T., Chair
State Board of Physical Therapy Examiners

CONSENT OF PAMELA VOGEL, P.T.A.

I, Pamela Vogel, P.T.A., acknowledge that I have had the opportunity to consult with
counsel before signing this document. By this Consent, I admit to the Findings of Fact and
Conclusions of Law as set forth above, and agree and accept to be bound by the foregoing
Consent Order and its conditions and restrictions. I waive any rights I may have had to
contest the Findings of Fact and Conclusions of Law.

I acknowledge the validity of this Consent Order as if entered into after the
conclusion of a formal evidentiary hearing in which I would have had the right to counsel,
confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other
substantive and procedural protections as provided by law. I acknowledge the legal
authority and jurisdiction of the Board to initiate these proceedings and to issue and
enforce the Consent Order. I also affirm that I am waiving my right to appeal any adverse

ruling of the Board that might have followed any such hearing.

I sign this Consent Order after having had an opportunity to consult with counsel, without reservation, and I fully understand and comprehend the language, meaning and terms of this Consent Order. I voluntarily sign this Order, and understand its meaning and effect.

4/25/09 ~~3/31/09~~
pv Date

Pamela Vogel PTA
Pamela Vogel, P.T.A.
Pamela A Vogel

STATE OF MARYLAND

CITY/COUNTY OF Calvert:

I HEREBY CERTIFY that on this 25 day of April, 2009, before me, Cathy C. Harte, a Notary Public of the foregoing State and, (Print Name) personally appeared Pamela Vogel, P.T.A., License Number A2613, and made oath in due form of law that signing the foregoing Consent Order was her voluntary act and deed, and the statements made herein are true and correct.

AS WITNESSETH my hand and notarial seal.

Cathy L. Harte
Notary Public

My Commission Expires: 12-17-2012

CATHY L. HARTE
NOTARY PUBLIC
MARYLAND
MY COMMISSION EXPIRES DEC. 17, 2012